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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Advanced Television Systems and Their	)	MM Docket No. 87-268
Impact upon the Existing Television	)	
Broadcast Service	)	

To: The Commission

REPLY COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

SINCLAIR BROADCAST GROUP, INC.

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SUMMARY

The DTV allotment plans that have been advanced by the Commission and the Broadcasters' Caucus present a disparity in power levels between VHF/UHF stations and UHF/UHF stations that threatens to jeopardize UHF broadcasters from the very outset of the DTV era. As a result of efforts by Sinclair and other UHF broadcasters, the industry now acknowledges this problem. Sinclair, other UHF broadcasters, and the Caucus have agreed to a consensus plan that addresses the problem. Under this approach, there would be a two-year trial period during which UHF/UHF stations would be permitted to operate with double the power assigned them in the DTV Table of Allotments adopted by the Commission. After this two-year period, the Commission would determine adjustments to power levels of UHF/UHF stations so as to replicate the relative competitive posture of UHF/UHF and VHF/UHF stations in the DTV environment, based on final data to be developed and submitted by the broadcast industry. The consensus plan also contemplates an 18-month period for in-the-field testing by the industry of VHF/UHF and UHF/UHF DTV operations on coverage and interference issues, to evaluate the extent to which the relative competitive posture of today's UHF and VHF stations is replicated in the DTV environment.

Sinclair supports the consensus plan and urges its adoption, with the following modifications:

* During the two-year trial period, the power levels of VHF/UHF stations should be limited to 500 kilowatts;

* The 18-month testing period should be extended, if necessary, until six months from the time that commercial DTV receivers become available on the market.

In implementing the consensus plan, the Commission should be guided by the following important considerations:

1. It is critical that the Commission allow a trial period during which the television industry can collect field data on actual DTV operation before the power levels of DTV stations are adjusted to final levels. During this trial period, the disparity in power levels between VHF/UHF and UHF/UHF stations must be maintained at a level that permits UHF/UHF stations to viably compete in the DTV environment.

2. Recommendations for the final adjustment of DTV power levels should be made by a group of technical experts that are not associated with special interest groups, or that have vested interests in a particular class of competitors. Rather, the group should consist of objective experts from academic research organizations whose mission will be to provide fair, impartial recommendations.

3. The Commission's final power assignments to DTV stations must take into consideration the fact that UHF/UHF stations' ability to be received by simple indoor antennas, as well as whip antennas attached to future digital devices designed to receive data from DTV signals, is critical to those stations' competitiveness. The Caucus allotment plan assumes a 7 dB noise factor for DTV receivers. This is a dangerous assumption for UHF/UHF stations, since it can be expected that many if not most consumers will be receiving DTV signals via indoor loop antennas and other types of receiving antennas that are of significantly lesser quality than the outdoor antennas utilized for DTV testing. If the Commission adopts the 7 dB noise figure assumption, it must mandate receiver standards in line with such an assumption. However, even such a mandate may not be enough. The Commission must also adopt power levels for UHF/UHF stations that enable those stations to provide reliable service to receivers equipped with indoor antennas suffering building penetration losses on the order of -15 to -28 dB and higher. Otherwise, the Commission will risk depriving vast numbers of viewers -- including low-income viewers -- of DTV service from UHF/UHF television stations.

Adoption of the approach upon which Sinclair, other UHF broadcasters, and the Caucus have agreed, guided by the modifications and considerations outlined in these Reply Comments, will ensure that DTV service is instituted promptly -- but at the same time in a rational manner that does not destroy the viability of UHF/UHF stations from day one of the DTV era.

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REPLY COMMENTS OF SINCLAIR BROADCAST GROUP, INC.

Sinclair Broadcast Group, Inc. ("Sinclair"), by its attorneys, hereby submits its Reply Comments in response to the Commission's Sixth Further Notice of Proposed Rule Making in this proceeding, 11 FCC Rcd 10968 (1996) ("Sixth Further Notice"). Sinclair, other UHF television broadcasters, and the Broadcasters' Caucus (the "Caucus"), have agreed upon a plan for resolving the serious and unfair competitive disparities between analog VHF stations relocating to the UHF digital band ("VHF/UHF stations") and analog UHF stations operating on the UHF digital band ("UHF/UHF stations") that are inherent in the digital television ("DTV") allotment plans that have been advanced by the Commission and the Caucus. The core objectives of the plan are replication of coverage and relative competitive posture of VHF/UHF and UHF/UHF stations in the new DTV environment. Sinclair supports this plan, which will be detailed in the Reply Comments to be filed by the Caucus, with the following modifications:

1. During the two-year trial period, the power levels of VHF/UHF stations should be limited to 500 kilowatts.

2. The 18-month testing period should be extended, if necessary, until six months from the time that commercial DTV receivers become available on the market.

In these separate Reply Comments, Sinclair addresses the modifications to the consensus plan that it advocates, as well as the following fundamental considerations that must guide the implementation of this plan:

1. Now that the Caucus has recognized the need for replication not only of coverage, but of competition between VHF/UHF and UHF/UHF stations in the DTV environment, the Commission should allow a trial period during which the television industry can collect field data and ascertain the factors that more precisely define the term "relative competitiveness." Thereafter, the power levels of DTV stations may be adjusted. This trial period must be undertaken without allowing the implementation of unfair and disparate power levels between VHF/UHF and UHF/UHF stations that are proposed in the FCC and Caucus allotment plans.

2. At the end of the trial period, the power levels of DTV stations should be adjusted on the basis of recommendations by a group of technical experts who will oversee the testing, power, and channel allotment/assignment process. This group of experts should not be comprised of representatives of organizations with economic agendas or vested interests in a particular class of competitors. Rather, the group should consist of objective experts from academic research organizations whose mission will be to provide fair recommendations.

3. The Commission's final power assignments to DTV stations must take into consideration the fact that DTV stations' ability to be received by simple indoor antennas and whip antennas attached to future digital applicances designed to receive data from the auxiliary data channel is critical to stations' competitiveness. In the absence of FCC-mandated standards for DTV receivers, the planning factor underlying the Caucus table which assumes a 7 dB noise figure for DTV receivers is dangerous for UHF/UHF stations. In a DTV environment where cable carriage of DTV signals will be the exception, not the rule, and with no assurance that the DTV receivers actually manufactured will have a 7 dB noise figure, such an assumption carries with it the threat that vast numbers of minorities and others will be deprived of DTV service from UHF/UHF television stations.

Adoption of the approach upon which Sinclair, other UHF broadcasters, and the Caucus have agreed, guided by the modifications and considerations outlined herein, will ensure that DTV service is provided promptly -- but at the same time in a rational manner that does not destroy UHF/UHF broadcasters to the detriment of the public interest.

I. Sinclair's Interest

Sinclair -- a publicly-traded company with thousands of shareholders and a multi-billion dollar market capitalization -- is one of the nation's largest group television owners. At present, Sinclair owns and operates 13 television stations, and has applications pending to acquire seven additional stations (each of which Sinclair is currently programming pursuant to a time brokerage agreement). Sinclair also provides programming services to eight other television stations pursuant to time brokerage agreements. Of the 28 television stations which Sinclair owns, proposes to own, or to which it provides programming services, 25 are UHF stations. Sinclair thus has an enormous stake in the future viability of UHF/UHF television stations. Indeed, the need for UHF television broadcasters to flourish into the 21st century, providing diversity and competition to the broadcast industry, cannot be understated. This is so because, according to the Commission's most recent figures, 53% (630 of 1190) of today's commercial television stations operate in the UHF band.

II. The Problem

In November of last year, comments were filed in response to the Sixth Further Notice, in which the Commission presented a draft DTV Table of Allotments. Among the commenters was the Caucus, a group of television broadcasters with the technical backing of the Association for Maximum Service Television ("MSTV"), which proposed an alternative table of allotments.

Following the filing of the Caucus proposal, Sinclair undertook a careful study of the allotment plans advanced both by the Commission in the Sixth Further Notice and by the Caucus. Sinclair's study and analysis revealed disturbing realities. Specifically, Sinclair

discovered that the Commission and Caucus DTV allotment plans, both of which are based on the concept of "replicating" the existing service areas of analog stations, create enormous and unfair disparities between UHF/UHF and VHF/UHF stations. In today's analog world, there are natural propagation differences between VHF and UHF signals. UHF signals are more affected by obstructions, ghosting, foliage, and adverse weather conditions than are VHF signals. Moreover, VHF signals extend "over the horizon," and UHF signals do not. This is why the Commission authorized much higher effective radiated power levels for UHF stations. However, in the DTV environment, the vast majority of television stations will operate on UHF channels. Thus, there will be no differences in propagation characteristics or receiver difficulties between DTV stations operating in the same band. The ability to receive DTV signals will primarily be a function of a station's power.

The Commission and Caucus tables are both premised on the concept of "replication of coverage" -- in other words, matching each station's current coverage area. In the case of VHF/UHF stations, the tables achieve this objective by massively increasing the VHF/UHF station's operating power in order to allow the station's signal to extend "over the horizon." As a result, the power level necessary to achieve "replication of coverage" of a VHF/UHF station is up to **100 times greater** than the power level necessary to replicate a UHF/UHF station's present coverage area. A prime example can be found in Baltimore, Maryland, where Sinclair's very first television station operates. Under the Caucus table, one of the present VHF stations in the Baltimore market will be authorized to operate with approximately 2700 kilowatts in the DTV band. Sinclair's UHF station in Baltimore, on the other hand, will be authorized to operate with only approximately 27 kilowatts. Thus, Sinclair's VHF/UHF competitor will in many cases be

able to operate at a power that is one hundred times greater than Sinclair's UHF/UHF station following the transition to DTV.

For Sinclair and other UHF broadcasters, the problem with this situation is **not** primarily the geographic coverage advantage that VHF/UHF stations will have over UHF/UHF stations in the DTV environment. VHF stations have enjoyed such an advantage in the analog environment for years due to VHF's propagation advantages, and Sinclair does not here seek to eliminate this advantage. "Parity" in station coverage between VHF/UHF and UHF/UHF stations is not the focus of Sinclair's concerns in this proceeding.

The **real** problem that these power disparities present for Sinclair and other UHF broadcasters is the quality of a UHF/UHF station's service **within the station's Grade A contour**, where the station's signal is most receivable, where most of the station's audience is located, and where most of its revenue is generated. Differences in output power translate directly into differences in received field strength, which in practical terms means ease of reception. This might not be a significant concern for a viewer with the luxury of installing on his/her dwelling an outdoor DTV receiving antenna with excellent sensitivity and a low noise figure. (These were the type of antennas that were employed in the "Charlotte tests" conducted during development of the DTV system.) However, a substantial number -- if not a majority -- of DTV antennas are not likely to be of this type. The reality is that most people will not utilize an outdoor antenna, but rather will have an "out of the box" loop antenna of questionable sensitivity. A 1980 study funded by the Commission and conducted by Georgia Tech University estimates that a DTV loop antenna system inside a building will have an equivalent gain in the -28 dB range. See FCC Contract FCC-0315, "Program to Improve UHF Television Reception," Final Report (September 1980). With powers just a fraction of those assigned to VHF/UHF

stations under the Commission and Caucus tables, UHF/UHF stations will have a much more difficult time being received by such antennas. The significance of this problem cannot be expected to be mitigated by cable carriage of DTV stations. With no express "must-carry" obligations with respect to DTV signals, cable systems cannot be relied upon as a delivery mechanism.

Moreover, one of the promises envisioned for DTV is the use of the DTV signal for ancillary services such as data transmission. Already, the computer industry is in the process of manufacturing devices capable of receiving data information from broadcasters' DTV signals. However, the "pop-up" antennas that will be used on devices receiving data from DTV signals will have gains that are worse than those associated with loop antennas on sets -- quite likely worse than -20 dB.

In the DTV world, there is no such thing as a poor picture. Because of the "cliff effect" of a DTV signal, it is not a matter of mildly annoying lines or "snow." The DTV signal, once received field strength passes a certain "threshold of visibility," will simply disappear. As noted above, the Georgia Tech study indicates that a loop antenna system inside a building will have an equivalent gain of -28 dB. Using the Baltimore example, such an antenna will have a receivable signal from a 27 kilowatt UHF/UHF station for no more than 15 miles, whereas the 2700 kilowatt VHF/UHF station will be receivable for 50 miles. Given the "cliff effect," this means that for a viewer utilizing a simple indoor loop antenna, and considering the -28 dB loss occurring from building penetration, Sinclair's Baltimore station **will not be seen beyond 15 miles from the station's antenna.** This is not an isolated example. Both the Commission and Caucus tables propose power disparities of similar magnitudes between VHF/UHF and UHF/UHF stations in most television markets. With power levels between ten and one hundred

times lower than their VHF/UHF counterparts, it is apparent that UHF/UHF stations will face far greater difficulties in reaching all but the highest-quality receiving antennas.

The enormously disparate power levels that the Commission and Caucus tables propose between VHF/UHF and UHF/UHF stations, therefore, threaten the very survival of UHF/UHF broadcasters. Replicating the few extra miles of "over the horizon" coverage enjoyed by VHF/UHF stations results in gross power disparities between VHF/UHF stations and UHF/UHF stations that threatens the viability of existing UHF stations, so that VHF stations can preserve their historic coverage advantage over UHF stations.

Admittedly, Sinclair's concerns about the power level disparities between VHF/UHF and UHF/UHF stations that are created by the present tables have come to the forefront in the latter stages of this proceeding. Fortunately, however, these concerns have not been raised too late to prevent the inequity and damage to UHF/UHF broadcasters that the adoption of either of these tables would create. Sinclair's position does *not* advocate coverage "parity" between VHF/UHF and UHF/UHF stations in the DTV environment. Sinclair does not oppose the concept of "replication" per se. The fundamental issue for Sinclair is: replication of *what*? It is Sinclair's position that replication of *coverage areas alone*, for the reasons described above, creates vast inequities between VHF/UHF and UHF/UHF stations in terms of quality of service within their immediate Grade A contours. Sinclair believes that what should be replicated is not only existing coverage areas, but the *relative competitive posture* of UHF stations vis-a-vis VHF stations in the present analog environment. The concept of relative competitive posture must at a minimum encompass DTV stations' ability to provide reliable service to all types of DTV receivers and antennas that are utilized by consumers in a station's service area. In short, Sinclair wants to assure that the competitive advantage that VHF broadcasters enjoy over UHF

broadcasters in the analog world is at least frozen at present levels, and is not magnified, in the DTV world.

III. The Consensus Plan

Sinclair expects that the Caucus, in its reply comments to be filed today, will set forth the details of a consensus plan upon which Sinclair, other UHF broadcasters, and the Caucus have agreed to address the VHF/UHF-UHF/UHF power disparity issue. In the consensus plan, the Caucus states that "[t]he objective of the table of DTV allotments and assignments, including associated power levels, tower heights and other technical parameters, has been and should be to replicate NTSC coverage (including indoor antenna coverage well within stations' Grade B contours) and the relative competitive posture of analog VHF and UHF stations in the new DTV environment." (Emphasis added). It notes that

> broadcasters are concerned that, due to certain of the proposed planning factors, the relative close-in and indoor antenna reception coverage of NTSC VHF channels moving to DTV UHF channels (V-to-U's) is better than that of NTSC UHF channels moving to DTV UHF channels (U-to-U's). If so, the relative competitive posture of analog VHF and UHF stations would not be replicated in the DTV environment. All agree on the need for more field data to confirm the appropriateness of the planning factors. (Emphasis added).

Accordingly, the broadcast industry (including Caucus members, Sinclair, and other UHF broadcasters) has committed to

(i) devote time, personnel, and substantial financial and logistical resources to design, conduct and evaluate in-the-field tests of VHF/UHF and UHF/UHF DTV operations on coverage and interference issues -- such tests to evaluate the extent to which the relative competitive posture of today's UHF and VHF stations are replicated in the DTV environment. This undertaking is to be cooperatively designed and organized, and should be concluded within 18 months after the Commission adopts a table of allotments along the lines recommended by the industry;

(ii) work with receiver manufacturers to develop greatly improved receiving antenna technology for widespread inclusion in television receivers;

(iii) work to create and/or support the appropriate organizations to provide continuing technical oversight of the testing, power, and channel allotment/assignment process based on neutral and scientific principles.

The consensus plan contemplates a gradual approach toward finalizing the power levels of DTV stations. Under this approach, there would be a two-year trial period during which UHF/UHF stations would be permitted to operate with double the power assigned them in the modified Table of Allotments. As discussed below, there has been no agreement on the power levels at which VHF/UHF stations would operate during the two-year trial period. After this two-year period, the Commission would determine adjustments to power levels of UHF/UHF stations so as to replicate the relative competitive posture of UHF/UHF and VHF/UHF stations in the DTV environment, based on final data to be developed and submitted by the broadcast industry.

Sinclair supports this consensus plan, although it contains no power recommendation for VHF/UHF stations and although Sinclair believes, as discussed below, that the 18-month testing period described in the plan should be extended if necessary until six months after commercial DTV receivers are available in the market. The consensus plan does not radically depart from the "replication" principle on which the Commission and Caucus tables were developed. It does not contemplate significant changes in planning factors or realignment of present DTV channel assignments. Moreover, the approach allows for the expeditious introduction of DTV service. At the same time, the proposal represents a rational approach to implementation of DTV. It recognizes that the concept of "replication" should encompass not merely coverage contours, but the relative competitive posture of VHF/UHF stations versus UHF/UHF stations in the DTV

environment. Moreover, by providing for a two-year trial period during which UHF/UHF stations would operate at double their assigned powers, while actual field data is collected to determine the adjustments that should be made to ensure replication of relative competitiveness, the consensus plan serves to ensure that UHF/UHF stations are not crippled in competing against their VHF/UHF counterparts from the moment DTV becomes a reality. For all these reasons, Sinclair urges the Commission to adopt this consensus plan, together with the recommendations discussed below as to VHF/UHF power levels and the length of the testing period.

IV. Sinclair's Separate Recommendations Regarding the Consensus Plan

A. During the Two-Year Trial Period, the Power Levels of VHF/UHF Stations Should Not Be Permitted to Exceed 500 Kilowatts

Although Sinclair, other UHF broadcasters, and the Caucus agreed on most elements of the consensus plan, they did not agree on the power levels at which VHF/UHF stations would operate during the two-year trial period. Sinclair believes that, during this two-year period, VHF/UHF stations should be permitted to operate with no more than 500 kilowatts of power. In this regard, Sinclair agrees with the position of the Association of Federal Communications Consulting Engineers ("AFCCE") that the planning factor for over-the-horizon coverage for VHF/UHF stations should assume use of a pre-amplified antenna, and that under such an assumption, 500 kilowatts is ample power for a VHF/UHF station to replicate over-the-horizon coverage. See Comments of AFCCE (November 22, 1996), at 6-10.

B. The Testing Period Should Be Extended, if Necessary, Until Six Months From the Time Commercial DTV Receivers Become Available in the Market

The consensus plan calls for in-the-field testing of VHF/UHF and UHF/UHF DTV operations on coverage and interference issues to be concluded within 18 months after the FCC adopts a DTV Table of Allotments. Sinclair believes, however, that this testing period should extend **the longer of** (i) 18 months; or (ii) six months from the time that commercial DTV receivers become available in the market. As detailed elsewhere in these Reply Comments, the major concern of Sinclair and other UHF broadcasters is the extent to which their DTV signals will be receivable by consumer receiving equipment being utilized in a station's service area. Testing that addresses this concern will be meaningful only if it conducted over a period of time that allows actual DTV receiving equipment to be manufactured, sold to consumers, and situtated and actually utilized. Thus, an 18-month testing period will be of no value if commercial DTV receivers have not been placed on the market during that time. Accordingly, the testing period contemplated by the consensus plan should be extended as set forth above.

V. The Principles That Must Guide Implementation of the Consensus Plan

In implementing the plan to which Sinclair, other UHF broadcasters, and the Caucus have agreed, it is critical for the Commission to keep certain fundamental considerations in mind. These principles are outlined below.

A. The Commission Must Provide for a Trial Period That Allows for Adjustment of DTV Power Levels to Replicate Relative Competitiveness Based on Real-World Conditions

First, it is essential that the Commission adopt the two-year trial period contemplated by the consensus plan, during which the industry would compile data concerning the actual operation of DTV stations. That data would in turn form the basis of recommendations by a technical advisory group for adjustments to DTV power levels.

It goes without saying that DTV will usher in a new age of television broadcasting. While DTV has been tested in laboratory situations, how it will behave in the real world remains largely unknown. As reflected in the consensus plan being proposed today, the Caucus has recognized the need not only for replication of coverage, but for replication of relative competitiveness between VHF/UHF stations and UHF/UHF stations in the digital environment. As discussed elsewhere in these Reply Comments, "relative competitiveness" at a minimum must take into consideration the extent to which DTV stations are able to provide reliable video and ancillary services to all viewers/users in their core market areas. The other factors that might weigh in a determination of "relative competitiveness," as well as precisely how that term might be measured, are questions that can only be answered through real-world experience in the operation of DTV stations in actual competitive environments.

In short, the two-year trial period contemplated by the consensus plan is crucial to the rational development of the nation's DTV service. The initial television allotment plan was developed in a similar manner four decades ago, with careful study of actual operational conditions prior to finalization of the final table of allotments. The sea change to DTV demands no less. It is equally important that the power disparity between VHF/UHF and UHF/UHF

stations be maintained at reasonable levels during the trial period. This will ensure that UHF broadcasters' prospects for viability in the DTV world are not crippled from the outset.

B. The Technical Advisory Group to Be Assembled for Making Final DTV Power Recommendations Should Be Comprised of Apolitical Technical Experts That Are Disassociated From Industry Interest Groups

The consensus plan contemplates the formation of a group that would oversee the testing, power, and allotment process for DTV and make recommendations to the Commission for final adjustments to DTV power levels following the two-year trial period. It is vital that such a group be a panel of technical experts positioned to make their recommendations on the basis of objective, disinterested views as to the technical and competitive well-being of the television industry. The industry and the Commission should ensure that the members of this group are comprised of individuals with technical expertise, but without vested interests in any segment of the television industry or connections to any of the various interest groups that have advocated a particular agenda in this proceeding. Ideally, Sinclair believes that the group should be made up of persons from technical institutions with expertise in television engineering. In this way, power adjustments will be based on the views of objective experts.

C. The Commission's Assignment of DTV Power Levels Must Allow DTV Signals to Be Reliably Received by Receivers With Less than Optimum Noise Figures

In the context of both adopting a DTV table of allotments, and in adjusting the power levels of DTV stations as contemplated by the consensus plan, the Commission must take into consideration DTV stations' ability to reach indoor and whip antennas, pop-up antennas on

computer devices, and other receiving antennas which will not be the "high-end" outdoor type that had been used in past DTV testing. In this regard, the DTV power levels specified in the Caucus table assume a noise figure of 7 dB by a DTV receiver. That assumption is dangerous, because it assumes that equipment which has not yet been designed or manufactured will have a noise figure that is a vast improvement over commercial receivers being produced today.

The Caucus's 7 dB noise figure assumption represents the gain of a high-quality DTV receiving antenna operating outdoors. As discussed in Section II, supra, however, most DTV antennas are not likely to be of this type. Not only will these antennas be difficult to afford in many cases, many viewers living in apartments, condominiums and planned communities may also face zoning and land-use restrictions that may impede their ability to situate such antennas. For viewers who are unable to afford or otherwise cannot utilize outdoor antennas, their DTV reception will necessarily be done via a loop antenna attached to the TV set. The Georgia Tech study indicates that a DTV loop antenna system inside a building will have an equivalent gain of -28 dB when signal losses from building penetration are taken into account. As shown above, a UHF/UHF station operating with 27 kilowatts of power in the DTV band will be viewable with such antennas out to no greater than 15 miles from the transmitter site. Because of the "cliff effect," past that point, the UHF/UHF station's signal will be invisible to viewers with such antennas. That very same station, operating in analog, has a Grade A contour of 45 miles -- three times its receivable DTV distance under the conditions described above.

The danger here is not simply a matter of UHF/UHF stations wishing to reach an adequate number of viewers in the DTV environment, though that certainly is a concern. Rather, the danger is a division of DTV consumers into the "haves" and "have-nots," with the "have-nots" being denied access to a full array of diverse video and data offerings via DTV signals.

The "have-nots," moreover, are likely to include lower-income segments of society. These consumers are the most likely to reside in multi-unit dwellings where an outdoor antenna is an impossibility, and are the least likely to have discretionary spending to devote to high-end state-of-the-art television equipment. Such consumers include a disproportionate number of minority viewers in urban areas.[1/]

It is therefore critical that the Commission mandate noise figure standards for DTV receivers that are in line with the Caucus' 7 dB assumption. However, even such a mandate may not be enough. The Commission must also adopt power levels for UHF/UHF stations that enable those stations to provide reliable service to receivers equipped with indoor antennas suffering building penetration losses on the order of -15 to -28 dB and higher. Otherwise, the Commission risks condemning an entire class of viewers -- including minorities and the economically disadvantaged -- to an inferior set of DTV choices. While more affluent consumers, with their high-end outdoor antennas, would have access to the full array of DTV channels, a significant number of viewers that are less affluent would not. It is UHF stations, however, that are currently making the greatest effort to serve minority-oriented and child audiences. The lion's share of UHF stations are affiliated with Fox, UPN and the Warner Brothers network, which have been noted for their efforts to provide programming to minority segments of the viewing audience as well as children's programming. These viewers' loss of access to such stations would be particularly detrimental, a circumstance exacerbated further by the lower level of cable

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1/ In 1993, the median income of the average African-American household was $19,533, compared to an overall American average of $31,241. The median income of the average Hispanic-American household was $22,886. In addition, 56.6% of all black households in 1990 lived in rented housing, compared to 35.8% of American households overall. 57.6% of all Hispanic households lived in rented housing. Source: Statistical Abstract of the United States, The National Data Book, U.S. Bureau of the Census, pp. 469, 733 (1995).

subscribership in such groups and their greater reliance on free over-the-air broadcast service.[2/] Certainly, the result of these allotment policies is contrary to the Commission's historic effort to increase the diversity of broadcast programming and enhance the availability of minority-oriented programming in particular, and is totally inconsistent with other overriding Commission policies such as universal communications service and the provision of Internet and other telecommunications services to schools and libraries in disadvantaged areas.

Conclusion

Due to the efforts of Sinclair and other UHF broadcasters, the television industry has now acknowledged that a DTV Table of Allotments based on replication of coverage alone would severely exacerbate, in the DTV world, the competitive disadvantages that analog UHF broadcasters already suffer vis-a-vis their UHF counterparts. Sinclair, other UHF broadcasters, and the Caucus have agreed on an approach to resolving this inequity that provides for a prompt, yet rational, implementation of DTV in the United States. This approach will assure that DTV will be instituted rapidly, but without severe economic dislocation of the broadcasters that represent over half of U.S. television stations, and that are the most committed to offering diverse and innovative programming. Accordingly, Sinclair urges the Commission to adopt this approach to the DTV Table of Allotments and implement that approach in accordance with the principles articulated herein, subject to the following modifications:

2/ As of 1993, whites were 21% more likely than African-Americans to be cable subscribers, and 16% more likely than Hispanics to subscribe. The Hispanic and African American Report, 1993, Mediamark Research, Inc. Indeed, as discussed in Section II, supra, DTV consumers overall can be expected to rely much more heavily on over-the-air reception, as cable systems are unlikely to carry two signals from a local broadcast station during the transition to DTV.

1. During the two-year trial period, the power levels of VHF/UHF stations should be limited to 500 kilowatts, based on the planning factor assumptions contained in the AFCCE's comments.

2. The 18-month testing period should be extended, if necessary, until six months from the time that commercial DTV receivers become available on the market.

Respectfully submitted,

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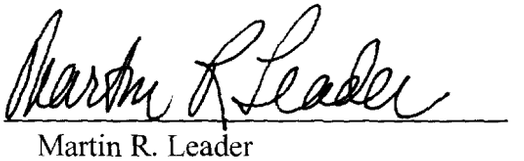
By: 

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